



UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
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MAY - 7 2003

DONALD E. STOUT
STOUT UXA BUYEN & MULLINS
4 VENTURE, SUITE 300
IRVINE CA 92618

In re Application of :
Basil Rapoport :
Serial No.: 08/482,402 : PETITION DECISION
Filed: June 7, 1995 :
Attorney Docket No.: 102105.151 :
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This is in response to applicant's renewed petition under 37 CFR 1.181, filed December 27, 2002, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history, as previously set forth, shows that the examiner mailed a Notice of Allowance and Issue Fee Due to applicant on May 1, 2002, setting a three month statutory period for payment of the Issue Fee. Applicant submitted payment of the Issue Fee on July 18, 2002 (Certificate of Mailing date) which was received on July 24, 2002. The Issue Fee Transmittal Form directed the Office to charge the Issue Fee to Deposit Account No. 13-5135. As noted in the attachment to this decision the Office was unable to charge the Issue fee due to insufficient funds in the Deposit Account on that date (approximately July 24, 2002). Applicant was not notified of the insufficiency. That applicant had sufficient funds in the Deposit Account at a later date, prior to the final due date for payment of the Issue Fee, is not germane to whether the Issue Fee was, or could have been, charged to the Deposit Account. The relevant date is the date the fee was attempted to be charged. The application was therefor held abandoned by Notice of Abandonment mailed September 16, 2002, for failure to pay the Issue Fee. Applicant resubmitted the Issue Fee on October 1, 2002, however this was after the due date for payment thereof.

37 CFR 1.25 states:

(a) For the convenience of attorneys, and the general public in paying any fees due, in ordering services offered by the Office, copies of records, etc., deposit accounts may be established in the Patent and Trademark Office upon payment of the fee for establishing a deposit account § 1.21(b)(1)). A minimum deposit of \$1,000 is required for paying any fee due or in ordering any services offered by the Office. However, a minimum deposit of \$300 may be paid to establish a restricted subscription deposit account used exclusively for subscription order of patent copies as issued. At the end of each month, a deposit account statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.

As noted in the highlighted section it is applicants' responsibility to ensure adequate funds are on deposit for all charges made or requested. Failure to do so will cause the requested charge to not be accepted. Failure of the Office to notify applicants of insufficient funds in an account or to attempt later to charge a fee to an account places an unnecessary burden on the Office and is not done.

Applicants' renewed petition is **DENIED**.

Applicants request that this also be considered a petition under 37 CFR 1.137(a) is dismissed as insufficient evidence or explanation are provided to establish unavoidable abandonment. Applicant is again advised to promptly submit a petition under 37 CFR 1.137(b) which would allow revival of this application.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230.

Jasemine C. Chambers
Jasemine C. Chambers
Director, Technology Center 1600